

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009SF2039
)	EEOC NO.: 21BA90837
MARIANNE FARRAR)	ALS NO.: 09-0651
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Marianne Farrar's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009SF2039; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioner filed a charge of discrimination with the Respondent on December 24, 2008. The Petitioner alleged in her charge that the Illinois Masonic Home ("Employer") discharged her on November 22, 2008, in retaliation for having opposed unlawful discrimination on August 8 and September 19, 2008, in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On October 20, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On October 29, 2009, the Petitioner filed a timely Request.
2. The Employer is a retirement home facility that provides care for retirees as well as nursing home residents. The Petitioner worked there as a Dietary Manager.
3. On July 25, 2008, the Petitioner wrote a letter to one of the Employer's administrators in which the Petitioner accused the administrator of discriminating against her and harassing her because of her national origin, which is German. The Petitioner further stated she intended to file a complaint against the administrator with the Department of Labor.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

4. Thereafter, the Petitioner filed two charges of discrimination against the Employer. On August 6, 2008, the Petitioner filed Charge No. 2009SF0387 with the Respondent, and on September 19, 2008, the Petitioner filed Charge No. 2009SF0852 with the Respondent.
5. In the summer of 2008, the Employer received complaints from the Petitioner's co-workers that the Petitioner had been attempting to involve the Employer's residents in her dispute with the Employer's administrator. Further, one of the residents complained to a staff member that she did not want to be involved and that the Petitioner was upsetting her.
6. On August 6, 2008, the Employer suspended the Petitioner with pay while it investigated the Petitioner's complaint against the administrator, as well as the complaints about the Petitioner's alleged behavior toward the Employer's residents.
7. On November 24, 2008, the Employer sent the Petitioner a notice that she was being discharged effective November 22, 2008, due to her disruptive behavior while in a supervisory position, her involvement of the Employer's residents in personnel matters, and because of her unscheduled absence from work from July 28, 2008 through August 4, 2008.
8. The Petitioner alleged in her charge that the Employer discharged her in retaliation because the Petitioner had filed charges of discrimination against the Employer in August and September 2008. In her Request the Petitioner asks the Commission to review the matter but offers no further argument or additional evidence in support of her Request.
9. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence because the Employer articulated a lawful and non-retaliatory reason for discharging the Petitioner and the Respondent found no substantial evidence of pretext.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

Assuming *arguendo* there is sufficient evidence to demonstrate the existence of a *prima facie* case of retaliation, i.e., the Petitioner engaged in a protected activity, the Employer thereafter took adverse action against the Petitioner, and there is some evidence of a causal connection between the two, the Employer has articulated a non-discriminatory reason for discharging the Petitioner.

Therefore, the Commission now looks to see if there is some evidence from which a reasonable mind could conclude the Employer's articulated reason was a mere pretext for retaliation. No such evidence has been presented to the Commission.

The evidence shows it is just as likely the Employer took adverse action against the Petitioner because of complaints it had received about the Petitioner's harassment of the Employer's residents, as well as other misconduct by the Petitioner. The Petitioner provides no additional evidence from which the Commission could conclude that Employer was retaliating against the Petitioner for her protected activity. Employers are entitled to make good faith business decisions; barring any substantial evidence that the Employer's actions were retaliatory, the Commission shall not substitute its judgment for that of the Employer. See Carlin v. Edsal Manufacturing Company, Charge No. 1992CN3428, ALS No. 7321 (May 6, 1996), *citing* Homes and Board of County Commissioner, Morgan County, 26 Ill HRC Rep. 63 (1986).

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Illinois Masonic Home, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 26th day of May 2010.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen